



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

*Superseded By art. 29 d
N.E.S.*

Honorable B. F. McKee
County Auditor
Hidalgo County
Edinburg, Texas

Dear Sir:

Opinion No. 0-3276
Re: Under the act set forth,
is there any authority
for paying the county
commissioners of Hidalgo
County \$50.00 per month
for traveling expenses
and depreciation on auto-
mobile?

Your recent request for an opinion of this depart-
ment on the above stated question has been received.

We quote from your letter as follows:

"Under an Act passed by the 45th Leg-
islature, the County Commissioners of this
county have heretofore drawn an allowance
of \$50.00 per month for traveling expenses
and depreciation on automobile. The Act
referred to is found on Page 392, Chapter
194, Acts of the 45th Legislature. At the
time this act was passed the population of
Hidalgo County, according to the last fed-
eral census was 77,004. According to the
1940 census the population of Hidalgo Coun-
ty is 106,059.

"Please advise if there is any author-
ity in law for paying the County Commis-
sioners of Hidalgo County the \$50.00 per
month specified in the above mentioned act."

House Bill No. 848, Chapter 194, Page 392, Acts of
the Forty-fifth Legislature, 1937, Regular Session, reads in
part as follows:

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"Section 1. In any county in this State having a population of not less than seventeen thousand, six hundred (17,600) and not more than seventeen thousand, seven hundred (17,700) and in any county in this State having a population of not less than seventy-seven thousand (77,000) and not more than seventy-seven thousand, one hundred (77,100) and in any county in this State having a population of not less than seventy-seven thousand, five hundred (77,500) and not more than seventy-seven thousand, six hundred (77,600), according to the last preceding Federal Census, the Commissioners Court is hereby authorized to allow each Commissioner the sum of Fifty Dollars (\$50) per month for traveling expenses and depreciation on his automobile while on official business. Each such Commissioner shall pay all expenses in the operation of such automobile and keep same in repair free of any other charge to the county.

"* * *."

This department has heretofore ruled on House Bill No. 848, supra, as it applies to Cameron County, holding that the same is a special law regulating the affairs of Cameron County, and therefore unconstitutional and void. A copy of this opinion, which is No. 0-2811, is enclosed herewith for your information. What was theresaidd with reference to the constitutionality of House Bill No. 848, supra, as it applied to Cameron County is equal applicable to said Act as it applied to Hidalgo County. A similar Act was held unconstitutional in our Opinion No. 0-1955.

It will also be noted that Hidalgo County has a population of 106,059 inhabitants according to the 1940 Federal census therefore, passing out of the population bracket as set forth in House Bill No. 848, supra. Said Act is no longer applicable to Hidalgo County. After a careful search of the statutes, we have been unable to find any statute authorizing the above mentioned expenditure for counties having the population of Hidalgo County as indicated by the 1940 Federal census.

In view of the foregoing, we respectfully answer the

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above stated question in the negative.

Trusting that the foregoing fully answers your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Ardell Williams*

Ardell Williams
Assistant

AW:RS

ENCLOSURE

APPROVED MAR 21, 1941

Frank B. Mann
ATTORNEY GENERAL OF TEXAS

